

REMARKS

Claims 1-25 are all the claims pending in the application.

New claims 26-45 have been added to provide additional claim coverage.

Claims 1-4, 9-12 and 15-25 have been amended as follows:

- Claims 3, 4, 15-18, 20, 22 and 24 have been amended to: (1) better conform them to the English language and U.S. patent practice; and (2) to broaden the scope of coverage. These are non-narrowing amendments and no estoppel is created.
- Claims 1, 2, 9-12, 19, 21, 23 and 25 have been amended to: (1) better conform them to the English language and U.S. patent practice; (2) to address the Examiner's objections; and (3) to address the Examiner's 35 U.S.C. § 112 rejections. These amendments are not intended to narrow the scope of the claims and in fact, the amendments broaden the scope of coverage.

INFORMATION DISCLOSURE STATEMENT

The Examiner has failed to initial the foreign patent documents listed on Applicants IDS filed on March 17, 2004 (paper no. 5). Applicant respectfully requests that the Examiner consider and initial the references in the next Office Action. Applicant complied with the concise explanation requirement under 37 C.F.R. § 1.98(a)(3) by submitting an English translation of the pertinent portions of the foreign office action that indicate the degree of relevance found by the foreign office. See MPEP 609(III)(A)(3).

CLAIM OBJECTIONS

The Examiner has objected to claims 1, 2, 9-12, 19, 21, 23 and 25 because of alleged grammatical errors. As mentioned above, these claims have been amended. Therefore, Applicant requests that the Examiner withdraw these objections.

35 U.S.C. § 112, 2nd PARAGRAPH REJECTIONS

The Examiner has rejected claims 1, 2, 9-12, 19, 21, 23 and 25 under 35 U.S.C. § 112, 2nd paragraph as allegedly being indefinite. As mentioned above, these claims have been amended to better clarify Applicant's claimed invention. Therefore, Applicant requests that the Examiner withdraw these rejections.

35 U.S.C. § 103(a) REJECTIONS

The Examiner has rejected claims 1-14, 19 and 21-25 under 35 U.S.C. § 103(a) as being unpatentable over the combination of the Beymer and Nagamine articles. Applicant traverses these rejections because the cited references fail to disclose or suggest all of the claim limitations. Specifically, the references fail to disclose or suggest at least the following limitations of the independent claims:

***generating referential face image data based on the shooting conditions,
the three-dimensional shape and an image of the surface thereof;***

By way of example only, and not intended as limiting the scope of the claims, page 9, lines 23 – 26 of the Specification describe the generation of a referential image using the three-dimensional shape data 3 and the color image data 4 according to the shooting conditions.

Applicant first notes that the Examiner concedes that Beymer fails to disclose or suggest referential face image data being generated based on the three-dimensional shape of a person's face. Nagamine on the other hand discloses the collation of three-dimensional shapes, but does not use the surface image. As such, Nagamine compares shapes, but not face images.

Assuming *arguendo* that one of skill in the art were to combine Beymer with Nagamine, you might end up with a system that compare shapes and compares face images. However, there is nothing to suggest that referential image data that is compared would be generated by three-dimensional data and image data. Therefore, Applicant requests that the Examiner withdraw the prior art rejections.

Regarding the rejection of claims 3, 4, 7, 8, 22 and 24, these claims should be allowable at least based on their dependence from their respective independent claims for the reasons described above. In addition, each of these claims requires that shooting conditions comprise a lighting direction. The Examiner asserts that Beymer discloses that the shooting conditions include lighting directions on page 757, section 2 and page 759, section 4.2. Applicant respectfully disagrees. Beymer does not take into account the lighting direction because it assumes lighting conditions are fixed ("For both the modeling and testing views, the lighting conditions are fixed and consist of a 60 watt lamp near the camera supplemented by background lighting from windows and overhead lights.").

The Examiner has rejected claims 15-18 and 20 under 35 U.S.C. § 103(a) as being unpatentable over the combination of the Beymer and Nagamine articles, further in view of Wang (U.S. Patent No. 6,035,055).

Regarding the rejection of claims 15-18 and 20, these claims should be allowable at least based on their dependence from their respective independent claims for the reasons described above. In addition, each of these claims requires that shooting conditions comprise a lighting direction. The Examiner asserts that Beymer discloses that the shooting conditions include lighting directions on page 757, section 2 and page 759, section 4.2. Applicant respectfully disagrees. Beymer does not take into account the lighting direction because it assumes lighting conditions are fixed ("For both the modeling and testing views, the lighting conditions are fixed and consist of a 60 watt lamp near the camera supplemented by background lighting from windows and overhead lights.").

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
USSN: 09/820,376

Q63734

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Carl J. Pellegrini
Registration No. 40,766

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: July 1, 2004